

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

A.T. Reynolds & Sons, Inc.
d/b/a Leisure Time Spring Water,

Case No. 08-37739 CGM

Debtor.

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**STATEMENT OF ISSUES ON APPEAL AND DESIGNATION
OF ITEMS TO BE INCLUDED IN THE RECORD**

Wells Fargo Bank, N.A. ("Wells Fargo") and Ruskin Moscou Faltischek, P.C. ("RMF") (together, the "Appellants"), by and through its undersigned counsel, in accordance with the Federal Rules of Bankruptcy Procedure and the Federal Rules of Appellate Procedure, hereby files its: a) Statement of Issues to be Presented; and b) Designation of Items to be Included in the Record on Appeal to the United States District Court, Southern District of New York.

I. STATEMENT OF ISSUES ON APPEAL

1. Whether the Bankruptcy Court erred in holding the Appellants in contempt of the Mediation Order by failing to participate at the mediation in good faith and, thus, subjecting the Appellants to sanctions.
2. Whether the Bankruptcy Court erred in determining that Wells Fargo sent a party to the mediation that did not have full settlement authority.
3. Whether the Bankruptcy Court erred in finding that the Appellants violated the terms of General Order M-211 and the Mediation Order.
4. Whether the Bankruptcy Court erred in establishing standards for a mediation party.

5. Whether the Bankruptcy Court erred in finding that Wells Fargo was not within its rights to request a clarification of the issues to be mediated and the identities of the parties to be present.

6. Whether the Bankruptcy Court erred in ordering Wells Fargo to mediation where Wells Fargo was not then a party in a pending issue in controversy before the court.

7. Whether the Bankruptcy Court erred in hearing its own motion to hold the Appellants in contempt for allegedly mediating in bad faith.

8. Whether the Bankruptcy Court erred in ruling that the Appellants demonstrated a lack of settlement authority because during a break in the mediation one of the Appellants' mediation parties engaged in a private phone conversation with an undisclosed party.

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD¹

<u>Document</u>	<u>Date Filed</u>	<u>Document No:</u>
Transcript of Hearing held on 2/3/09	3/3/2009	110
Transcript of Hearing held on 1/27/09	3/3/2009	111
Order signed on 4/3/2009 Authorizing Sale of the Debtor's Assets, Free and Clear of Liens, Claims and Encumbrances and Granting Related Relief	4/3/2009	175
Transcript of Hearing held on 3/27/09	7/1/2009	202
Motion to Allow Claims	7/8/2009	203
Order Granting Motion for allowance and payment of administrative claims	7/21/2009	210
First Motion to Reconsider FRCP 60 or FRBP 3008 this Courts order Granting Motion for Allowance and Payment of Certain Administrative Claims	7/31/2009	211
Order Denying Motion for Approval of Adequate Assurance of Payment to Utility Services and Continuation of Service	8/13/2009	214
Opposition to Motion to Reconsider Allowance and Payment of Certain Administrative Claims	8/21/2009	217
Letter Requesting Mediation Order	8/21/2009	220
Order Assigning Disputed Matter To Mediation And Setting Mediation Deadlines	8/27/2009	224
Motion for Mediation Order Appointing Robert Goldman As Mediator	9/23/2009	226
Order Granting Motion to Appoint Robert Goldman as Mediator	9/24/2009	227
Transcript of Hearing held on 11/17/09	11/19/2009	229
Order to Show Cause why Wells Fargo and Counsel to Wells Fargo should not be sanctioned for contempt of General Order No. 390 and the ATR Mediation Order.	12/3/2009	231

¹ The Appellants reserve the right to supplement this Designation of Record to include items not docketed, but which were relied upon by the Bankruptcy Court in issuing its Opinion and Order appealed from herein.

<u>Document</u>	<u>Date Filed</u>	<u>Document No:</u>
Letter Requesting Adjournment of Hearing on the Order to Show Cause	12/7/2009	232
So Ordered Stipulation signed on 12/8/2009 Denying Request for Adjournment of hearing on the order to show cause	12/8/2009	233
Transcript of Hearing held on 7/14/09	12/9/2009	234
Transcript of Hearing held on 8/25/09	12/10/2009	235
Response Brief to this Court's Order to Show Cause why Wells Fargo and its Counsel Should not be Held in Contempt	12/15/2009	236
Clarified Amended Order to Show Cause signed on 12/17/2009	12/17/2009	237
Transcript of Hearing held on 12/31/09	1/11/2010	241
Transcript of Hearing held on 12/1/09	1/27/2010	245
Opinion signed on 2/5/2010 Sanctioning Wells Fargo Bank, N.A. for Failure to Comply with General Order M-211 and Order Directing Parties to Mediation	2/5/2010	249
Order signed on 2/5/2010 Sanctioning Wells Fargo Bank, N.A. for Failure to Comply with General Order M-211 and Order Directing Parties to Mediation	2/5/2010	250
Notice of Appeal	2/19/2010	252

Dated: Uniondale, New York
March 4, 2010

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